

AMENDED IN ASSEMBLY JULY 14, 2015

AMENDED IN ASSEMBLY JULY 8, 2015

AMENDED IN ASSEMBLY JUNE 24, 2015

AMENDED IN SENATE APRIL 15, 2015

AMENDED IN SENATE MARCH 19, 2015

SENATE BILL

No. 204

Introduced by Senator Pavley

February 11, 2015

An act to amend Section 10110 of the Public Contract Code, *and* to amend Sections 513, 5001, 5002.2, 5080.16, and 5080.42 of, to add Sections 5001.2 and 5080.44 to, and to add and repeal Section 5003.9 of, the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 204, as amended, Pavley. State parks.

Existing law establishes the Department of Parks and Recreation and vests the department with the control of the state park system.

This bill would require the Director of Parks and Recreation to promote and regulate the use of the state park system in a manner that conserves the scenery, natural and historic resources, and wildlife in the individual units of the system for the enjoyment of future generations.

The bill would require the Department of Parks and Recreation, on or before December 1, 2016, to prepare a report to the Legislature that identifies the 10 projects within units of the state park system or on other property of the department that may provide the most significant greenhouse gas reductions.

Existing law requires the department to prepare a general plan or revise an existing plan for a unit of the state park system following classification or reclassification of the unit by the State Park and Recreation Commission, and prior to the development of any new facilities in any previously classified unit.

This bill would authorize the department to prepare a management or development plan that includes appropriate environmental review and analysis instead of a general plan for ~~park units in which minimal development may be proposed and~~ for a park unit to which new development is necessary to comply with public service delivery obligations, operational or code compliance upgrades, or resource preservation requirements that are compatible with the classification of the unit.

~~Existing law authorizes the Director of Parks and Recreation to negotiate or renegotiate a concession contract if specified conditions exist.~~

~~This bill would additionally authorize the director to negotiate or renegotiate a concession contract if the services provided pursuant to the contract will have minimal impact on state park resources, are inherently mobile or transitory in nature, and do not occupy a state-owned structure. The bill would also declare the intent of the Legislature that the department shall not compete with specified existing concession contracts.~~

Existing law, until January 1, 2019, authorizes the department to enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit, or units, or portion of a unit, of the state park system, but authorizes the department to enter into an operating agreement that involves the operation of the entirety of a park unit only to avoid closure of a unit or units of the state park system that may otherwise be subject to closure.

This bill would delete the repeal date of that provision, thereby extending its operation indefinitely, and would delete the above limitation on the department's authority to enter into an operating agreement that involves the operation of the entirety of a park unit. The bill would also authorize the department to accept donations of money from public or private sources to be used for the purpose of funding park programs to benefit youth, as defined. The bill would authorize the department to enter into agreements with public or nonprofit

organizations that serve youth, to provide service and learning opportunities for youth, as described.

Existing law authorizes the Director of the Department of General Services to permit the department to carry out a project where the nature of work is historic preservation of the state park system. Existing law requires the department to solicit bids and award the project to the lowest responsible bidder or reject all bids, if the estimated total cost of the project exceeds \$25,000, except as provided.

This bill would increase the dollar threshold described above to the total estimated cost of the project exceeding \$750,000.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature that the~~
2 ~~Department of Parks and Recreation not compete with existing~~
3 ~~concession contracts through which comparable food and beverage~~
4 ~~services are provided to the public.~~

5 ~~SEC. 2.~~

6 SECTION 1. (a) The Legislature finds and declares all of the
7 following:

8 (1) Nearly 35,000 volunteers contribute their time and energy
9 to the Department of Parks and Recreation, thereby enhancing the
10 experiences of visitors, complementing the work of departmental
11 staff, and generating economic activity through their voluntary
12 efforts at state parks.

13 (2) The department estimates that volunteers contribute more
14 than 1,000,000 hours each year and generate nearly twenty-five
15 million dollars (\$25,000,000) in economic value to the local and
16 regional economies around state parks through these substantial
17 volunteer efforts.

18 (3) It is the department's existing practice to offer one or more
19 types of complimentary passes to the department's volunteers in
20 recognition of their value-added contributions. Those
21 complimentary passes should also be offered to the volunteers at
22 cooperating associations in recognition of the value-added services
23 they provide.

24 (b) It is the intent of the Legislature that the Department of Parks
25 and Recreation extend the existing policies for the issuance of

1 complimentary state park passes to persons who volunteer at state
2 parks through cooperating associations, as defined in Section 513
3 of the Public Resources Code, consistent with the California State
4 Government Volunteers Act set forth in Chapter 8.5 (commencing
5 with Section 3110) of Division 4 of Title 1 of the Government
6 Code.

7 ~~SEC. 3.~~

8 *SEC. 2.* Section 10110 of the Public Contract Code is amended
9 to read:

10 10110. (a) Where the nature of the work is historic restoration
11 for the state park system, as determined jointly by the director and
12 the Director of Parks and Recreation, the department may authorize
13 the carrying out of the project directly by the Department of Parks
14 and Recreation.

15 (b) If the estimated total cost of any construction project or work
16 carried out under this section exceeds seven hundred fifty thousand
17 dollars (\$750,000), the Department of Parks and Recreation shall
18 solicit bids in writing and award the work to the lowest responsible
19 bidder or reject all bids. However, the director may authorize the
20 Department of Parks and Recreation to carry out work in excess
21 of seven hundred fifty thousand dollars (\$750,000) under the
22 provisions of this section by day labor if the director determines,
23 in consultation with the Director of Parks and Recreation, that the
24 award of a contract, the acceptance of bids, or the acceptance of
25 further bids is not in the best interests of the state. The Department
26 of Parks and Recreation shall establish, by regulation, criteria to
27 be considered by the Department of Parks and Recreation in
28 requesting authorization from the director to perform all or part
29 of a project by day labor.

30 ~~SEC. 4.~~

31 *SEC. 3.* Section 513 of the Public Resources Code is amended
32 to read:

33 513. (a) The department, as a means of furthering the
34 interpretive and educational functions of the state park system,
35 may enter into an agreement to act cooperatively with a nonprofit
36 cooperating association engaged in educational or interpretive
37 work in a state park system unit, as the director may designate,
38 whereby the cooperating association would furnish educational
39 and interpretive materials, or educational and interpretive services,

1 or educational and interpretative materials and services, for sale
2 to the public.

3 (b) Pursuant to Article 1 (commencing with Section 5080.02)
4 of Chapter 1.2 of Division 5, a concession may provide materials
5 and services that are intended to add to the convenience, enjoyment,
6 and safety of state park system visitors. A concession may also
7 provide, pursuant to this section, educational and interpretive
8 materials and services, as described in paragraphs (2) and (3) of
9 subdivision (d), with the approval of the department.

10 (c) A cooperating association may provide, pursuant to this
11 section, noneducational and noninterpretive materials and services,
12 as described in paragraph (4) of subdivision (d), or other materials
13 or services that would enhance the visitor experience, as part of
14 its cooperating association program with the approval of the
15 department, if the department is unable to obtain, through a good
16 faith effort, a concessionaire to provide those materials and
17 services.

18 (d) For purposes of this section, the following definitions apply:

19 (1) “Cooperating association” means a corporation that meets
20 all of the following criteria:

21 (A) The corporation is a nonprofit public benefit corporation,
22 organized pursuant to Part 2 (commencing with Section 5110) of
23 Division 2 of Title 1 of the Corporations Code.

24 (B) The articles of incorporation of the corporation state that
25 the specific purpose of the corporation is to provide support for
26 educational and interpretive programs of the state park system, or
27 portions of the programs.

28 (C) The corporation has a cooperating association program
29 contract with the department.

30 (D) The corporation is in compliance with the department’s
31 policies and guidelines regarding cooperating associations and has
32 obtained the department’s approval for its educational and
33 interpretive materials and services.

34 (2) “Educational and interpretive materials” include items that
35 promote visitor appreciation, understanding, and knowledge of
36 natural, cultural, and historic resources of the state park system,
37 including educational and interpretive gifts and souvenirs.

38 (3) “Educational and interpretive services” include those
39 activities and programs that focus on natural, cultural, and historic

1 resources of the state park system and are not generally offered
2 by the department.

3 (4) “Educational and interpretive materials and services” do not
4 include lodging, food service, horse and equipment rentals,
5 camping supplies, gifts and souvenirs, other than those described
6 in paragraph (2), transportation, except for equipment owned by
7 the department, recreational lessons, and the operation of
8 specialized facilities within a state park unit such as the theater at
9 Hearst San Simeon State Historic Monument and Old Town San
10 Diego State Historic Park, golf courses, and marinas.

11 (e) The department, at its discretion, may provide the services
12 of department personnel and shall provide space, if available, for
13 the sale of cooperating association materials, services, or both,
14 within a state park unit.

15 (f) Subject to rules and regulations that the director shall adopt,
16 all moneys collected by the cooperating association or received
17 by the department from the sale of cooperating association
18 materials, services, or both, provided by a cooperating association
19 shall be retained by or returned to the cooperating association for
20 use in the programs of the state park system unit that the
21 cooperating association has been designated to serve.

22 ~~SEC. 5.~~

23 *SEC. 4.* Section 5001 of the Public Resources Code is amended
24 to read:

25 5001. (a) The Legislature finds and declares all of the
26 following:

27 (1) California’s state parks are a true reflection of our state’s
28 collective history, natural and cultural heritage, and ideals. The
29 state parks can be models of healthy, natural, and sustainable
30 ecosystems and they can also commemorate important cultural
31 traditions or historic events. To remain relevant now and into the
32 future, state parks must protect California’s heritage and be
33 welcoming in order that visitors may understand and appreciate
34 these special places that have been set aside for their inspiration
35 and enjoyment.

36 (2) The state parks and other nature, recreation, and historic
37 areas deserve to be preserved and managed for the benefit and
38 inspiration of all state residents and visitors to the state parks. It
39 is the intent of the Legislature to clarify the priorities and

responsibilities of state agencies with respect to the management and administration of the state park system.

(3) Individual units of the state park system derive increased importance and recognition through their inclusion in a unified state park system that is preserved and managed for the benefit and inspiration of all Californians and visitors to the state.

(b) The Department of Parks and Recreation has control of the state park system.

~~SEC. 6.~~

SEC. 5. Section 5001.2 is added to the Public Resources Code, to read:

5001.2. The director shall promote and regulate the use of the state park system in a manner that conserves the scenery, natural and historic resources, and wildlife in the individual units of the system for the enjoyment of future generations.

~~SEC. 7.~~

SEC. 6. Section 5002.2 of the Public Resources Code is amended to read:

5002.2. (a) (1) Following classification or reclassification of a unit by the State Park and Recreation Commission, and prior to the development of any new facilities in any previously classified unit, the department shall prepare a general plan or revise any existing plan, for the unit.

(2) The general plan shall consist of elements that will evaluate and define the proposed land uses, facilities, concessions, operation of the unit, any environmental impacts, and the management of resources, and shall serve as a guide for the future development, management, and operation of the unit.

(3) The general plan constitutes a report on a project for the purposes of Section 21100. The general plan for a unit shall be submitted by the department to the State Park and Recreation Commission for approval.

(b) The resource element of the general plan shall evaluate the unit as a constituent of an ecological region and as a distinct ecological entity, based upon historical and ecological research of plant-animal and soil-geological relationships and shall contain a declaration of purpose, setting forth specific long-range management objectives for the unit consistent with the unit's classification pursuant to Article 1.7 (commencing with Section 5019.50), and a declaration of resource management policy, setting

1 forth the precise actions and limitations required for the
2 achievement of the objectives established in the declaration of
3 purpose.

4 (c) Notwithstanding subdivision (a), the department is not
5 required to prepare a general plan for a unit that has no general
6 plan or to revise an existing plan if the only development
7 contemplated by the department consists of the repair, replacement,
8 or rehabilitation of an existing facility; the construction of a
9 temporary facility, if the construction does not result in the
10 permanent commitment of a resource of the unit; any undertaking
11 necessary for the protection of public health or safety; or any
12 emergency measure necessary for the immediate protection of
13 natural or cultural resources; or any combination of these activities
14 at a single unit. Any development is subject to the requirements
15 of the California Environmental Quality Act (Division 13
16 (commencing with Section 21000)).

17 (d) Notwithstanding subdivision (a), the department is not
18 required to prepare a general plan or revise an existing plan for a
19 unit to which new development is necessary to comply with public
20 service delivery obligations, operational or code compliance
21 upgrades, or resource preservation requirements that are compatible
22 with the classification of the unit. The department may instead
23 prepare a management or development plan with appropriate
24 environmental review and analysis.

25 (e) Consistent with good planning and sound resource
26 management, the department shall, in discharging its
27 responsibilities under this section, attempt to make units of the
28 state park system accessible and usable by the general public at
29 the earliest opportunity.

30 (f) The department may prepare a general plan that includes
31 more than one unit of the state park system for units that are in
32 close proximity to one another and that have similar resources and
33 recreational opportunities if that action will facilitate the protection
34 of public resources and public access to units of the state park
35 system.

36 ~~(g) Notwithstanding subdivision (a), the department may prepare~~
37 ~~a management or development plan that includes appropriate~~
38 ~~environmental review and analysis instead of a general plan for~~
39 ~~park units in which minimal development may be proposed.~~

1 ~~SEC. 8.~~

2 *SEC. 7.* Section 5003.9 is added to the Public Resources Code,
3 to read:

4 5003.9. (a) The Legislature finds and declares that the
5 department should identify its energy costs, projects that could
6 reduce those costs, and potential energy-related infrastructure
7 projects that may be eligible for funding from revenues that may
8 be generated pursuant to a market-based compliance mechanism
9 that may be adopted by the State Air Resources Board pursuant
10 to Part 5 (commencing with Section 38570) of Division 25.5 of
11 the Health and Safety Code.

12 (b) (1) On or before December 1, 2016, the department shall
13 prepare a report to the Legislature that identifies the 10 projects
14 within units of the state park system or other property of the
15 department that may provide the most significant greenhouse gas
16 reductions.

17 (2) The report required pursuant to paragraph (1) shall be
18 submitted in compliance with Section 9795 of the Government
19 Code.

20 (c) Pursuant to Section 10231.5 of the Government Code, this
21 section is repealed on January 1, 2021.

22 ~~SEC. 9.~~

23 *SEC. 8.* Section 5080.16 of the Public Resources Code is
24 amended to read:

25 5080.16. If the director determines that it is in the best interests
26 of the state, the director, upon giving notice to the State Park and
27 Recreation Commission, may negotiate or renegotiate a contract,
28 including terms and conditions, when one or more of the following
29 conditions exist:

30 (a) The bid process as prescribed in this article has failed to
31 produce a best responsible bidder.

32 (b) The negotiation or renegotiation would constitute an
33 extension of an existing contract obtained through the process
34 required by this article and the extended contract would provide
35 for substantial and additional concession facilities, which would
36 be constructed at the sole expense of the concessionaire and which
37 are set forth in the general plan for the unit and are needed to
38 accommodate existing or projected increased public usage.

39 (c) Lands in the state park system administered by the
40 department and lands under the legal control of the prospective

1 concessionaire are so situated that the concession is dependent
2 upon the use of those public and private lands for the physical or
3 economic success, or both, of the concession.

4 (d) Whenever a concession is desired for particular interpretive
5 purposes in a unit of the state park system and the prospective
6 concessionaire possesses special knowledge, experience, skills, or
7 ability appropriate to the particular interpretive purposes.

8 (e) Whenever the concession has been severely and adversely
9 impacted through no fault of the concessionaire by an unanticipated
10 calamity, park closure, major construction, or other harmful event
11 or action.

12 (f) Whenever the estimated administrative costs for the bid
13 process exceed the projected annual net rental revenue to the state.

14 ~~(g) The services provided pursuant to the contract will have~~
15 ~~minimal impacts on state park resources, are inherently mobile or~~
16 ~~transitory in nature, and do not occupy a state-owned structure.~~
17 ~~Those services may include, but are not limited to, mobile food~~
18 ~~and beverage services.~~

19 ~~SEC. 10.~~

20 *SEC. 9.* Section 5080.42 of the Public Resources Code is
21 amended to read:

22 5080.42. (a) Notwithstanding any other provision of this
23 article, the department may enter into an operating agreement with
24 a qualified nonprofit organization for the development,
25 improvement, restoration, care, maintenance, administration, or
26 operation of a unit or units, or portion of a unit, of the state park
27 system, as agreed to by the director. The prohibition on park
28 closures, pursuant to subdivision (a) of Section 541.5, does not
29 limit the department's authority to enter into an operating
30 agreement pursuant to this section, as provided in subdivision (e)
31 of Section 541.5. The department may only enter into an operating
32 agreement that involves the operation of the entirety of a park unit
33 for no more than 20 park units. An operating agreement with a
34 qualified nonprofit organization shall include, but shall not be
35 limited to, the following conditions:

36 (1) The district superintendent for the department shall provide
37 liaison with the department, the nonprofit organization, and the
38 public.

39 (2) The nonprofit organization shall annually submit a written
40 report to the department regarding its operating activities during

1 the prior year and shall make copies of the report available to the
2 public upon request. The report shall be available on the Internet
3 Web sites of both the department and the nonprofit organization.
4 The report shall include a full accounting of all revenues and
5 expenditures for each unit of the state park system that the
6 nonprofit organization operates pursuant to an operating agreement.

7 (3) (A) Except as provided in subparagraph (B), all revenues
8 that the qualified nonprofit organization receives from a unit shall
9 be expended only for the care, maintenance, operation,
10 administration, improvement, or development of the unit. The
11 qualified nonprofit organization may additionally contribute in-kind
12 services and funds raised from outside entities for the care,
13 maintenance, operation, administration, improvement, or
14 development of the unit.

15 (B) If the qualified nonprofit organization determines that the
16 revenues it has received from a unit are in excess of the revenues
17 that are needed for the care, maintenance, operation, administration,
18 improvement, or development of that unit, and that these funds
19 are not already specified for or committed to specific purposes
20 pursuant to an existing agreement or contract restricting the use
21 of those funds, the qualified nonprofit organization may dedicate
22 those excess revenues to another state park unit for that unit's care,
23 maintenance, operation, administration, improvement, or
24 development.

25 (4) General Fund moneys shall not be provided to a nonprofit
26 organization to subsidize the operation or maintenance of a park
27 unit. This paragraph applies to state parks, the full operation of
28 which are turned over to a nonprofit organization, but does not
29 apply to or preclude the department from entering into agreements
30 with nonprofit organizations to operate a portion of a state park
31 unit, or from entering into comanagement agreements with
32 nonprofit organizations that involve the sharing of operational and
33 financial responsibilities for the park unit and that have the effect
34 of reducing state costs. This paragraph does not apply to park
35 entrance fees, concession revenues, or any other revenues generated
36 within a park operated by a nonprofit organization pursuant to this
37 section.

38 (b) An operating agreement entered into pursuant to subdivision
39 (a) shall honor the existing term of a current concession contract
40 for the state park unit subject to the operating agreement.

(c) An operating agreement entered into pursuant to subdivision (a) shall specify the duties that the nonprofit organization shall be responsible for carrying out relative to management and protection of natural, historical, and cultural resources, and shall identify those management duties that shall continue to be conducted by the department, so that all core operations of the park are delineated. Scientific, architectural, and engineering functions that require special expertise or professional training shall only be conducted by or under the supervision of qualified persons with applicable expertise or training and subject to oversight by the department.

(d) This section does not supersede the requirements of Section 5019.53 regarding the protection of natural, scenic, cultural, and ecological values.

(e) The nonprofit organization and the district superintendent for the department shall, following submittal of the annual report pursuant to subdivision (a), hold a joint public meeting for discussion of the report.

(f) If the department intends to enter into an operating agreement for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or a portion of a unit, the department shall notify the Member of the Legislature in whose district the unit is located, the Chair of the Senate Committee on Natural Resources and Water, the Chair of the Assembly Committee on Water, Parks, and Wildlife, and the chairs of the Assembly and Senate budget committees of that intention. The notification shall include estimated operating costs and revenues and core duties and responsibilities that are likely to be assigned to the nonprofit organization and the department.

(g) For purposes of this section, a qualified nonprofit organization is an organization that is all of the following:

(1) An organization that is exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

(2) An organization that has as its principal purpose and activity to provide visitor services in state parks, facilitate public access to park resources, improve park facilities, provide interpretive and educational services, or provide direct protection or stewardship of natural, cultural, or historical lands, or resources.

(3) An organization that is in compliance with the Supervision of Trustees and Fundraisers for Charitable Purposes Act, Article

7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

(h) (1) Notwithstanding Section 10231.5 of the Government Code, the department shall provide a report to the Legislature, on a biennial basis, of the status of operating agreements it has entered into pursuant to this section. The report shall include a list of units of the state park system with operating agreements, discussion of the management and operations of each unit subject to an operating agreement, an accounting of the revenues and expenditures incurred under each operating agreement, and an assessment of the benefit to the state from operating agreements entered into pursuant to this section.

(2) A report submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

~~SEC. 11.~~

SEC. 10. Section 5080.44 is added to the Public Resources Code, to read:

5080.44. (a) The department may accept donations of money from public or private sources to be used for the purpose of funding park programs to benefit youth, as described in subdivision (b).

(b) Notwithstanding Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code, the department may enter into agreements, including agreements that involve the transfer of funds appropriated to the department, with public or nonprofit organizations that serve youth to provide service and learning opportunities for young people by performing work on state park system programs and projects under the supervision of department employees, where the work is not being performed by state park employees. Programs and projects covered under this subdivision include all of the following:

(1) Restoring California's natural, historic, archaeological, recreational, and scenic resources.

(2) Training young people to be public land and resources managers and stewards for careers in public service.

(3) Undertaking appropriate cultural and natural resource conservation in a cost-effective and appropriate manner.